

**SENATE, No. 2527**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED JUNE 4, 2020

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**

**District 3 (Cumberland, Gloucester and Salem)**

**SYNOPSIS**

Concerns online marketing of affordable housing units.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning online marketing of affordable housing units  
2 and supplementing P.L.1985, c.222 (C.52:27D-301 et al.).  
3

4 BE IT RESOLVED by the Senate and General Assembly of the  
5 State of New Jersey:  
6

7 1. The Legislature finds and declares that:

8 a. In recent years, housing costs in New Jersey have increased  
9 dramatically at rates that have outpaced rises in income, making the  
10 State the sixth most expensive in the United States and growing the  
11 number of renters and homeowners that are housing cost-burdened,  
12 spending a disproportionate percentage of their income on high rent  
13 or mortgage payments;

14 b. To address the Statewide shortage in affordable housing,  
15 tens of thousands of affordable housing units have been and will be  
16 made available to very low-, low-, and moderate-income families,  
17 the elderly, and persons with disabilities in New Jersey through a  
18 wide variety of federal and State programs, including those  
19 implemented under the "Fair Housing Act," P.L.1985, c.222  
20 (C.52:27D-301 et al.);

21 c. Current rules designed to implement the "Fair Housing Act"  
22 require that the developer or administrative agent of the affordable  
23 units affirmatively market their units through newspaper and radio  
24 or television, but digital marketing is not explicitly required;

25 d. Due to the fragmentation of information consumption and  
26 the advent of housing search websites, an increasing number of  
27 residents are conducting their housing searches online;

28 e. The manner in which residents are searching for affordable  
29 housing and the existing rules for affirmatively marketing  
30 affordable units are no longer compatible due to changes in  
31 technology and, therefore, necessitate an update to facilitate more  
32 effective, streamlined, and fair searches of affordable housing for  
33 very low-, low-, and moderate-income residents of New Jersey in  
34 the furtherance of the "Fair Housing Act";

35 f. An infrastructure for hosting the increased postings already  
36 exists as the New Jersey Housing Resource Center, an affordable  
37 housing listing portal overseen by the New Jersey Housing and  
38 Mortgage Finance Agency; and

39 g. It is, therefore, in the interest of the residents of the State,  
40 and necessary for ensuring that the State's municipalities are  
41 compliant with their constitutional responsibility to affirmatively  
42 afford a reasonable opportunity for low- and moderate-income  
43 families to reside in their boundaries, that the agency, developers,  
44 and municipalities comply with P.L. , c. (C. ) (pending  
45 before the Legislature as this bill).  
46

47 2. As used in P.L. , c. (C. ) (pending before the  
48 Legislature as this bill):

1       “Affirmative marketing plan” means a regional marketing  
2 strategy designed to attract buyers, renters, or both to housing units  
3 which are being marketed by a developer or sponsor of affordable  
4 housing. An affirmative marketing plan shall target eligible persons  
5 who are least likely to apply for affordable units in the region.

6       "Agency" means the Housing and Mortgage Finance Agency  
7 established pursuant to section 4 of the "New Jersey Housing and  
8 Mortgage Finance Agency Law of 1983," P.L.1983, c.530  
9 (C.55:14K-4).

10       “Development” means any residential development in which  
11 housing for very low-, low-, or moderate-income households is  
12 required, including developments receiving credit in a municipal  
13 housing element and fair share plan or otherwise approved by the  
14 council or court, or in which such housing is required via land use  
15 approvals from any municipal land use board.

16

17       3. The agency shall administer the Housing Resource Center,  
18 or a designated successor, as an online portal for income-restricted  
19 housing listings and searches.

20

21       4. a. (1) The owner, developer, property manager, or other  
22 administrative entity required to implement the affirmative  
23 marketing plan of a newly constructed development where  
24 affordable housing units will be leased or sold for the first time  
25 shall be required to post a listing on the Housing Resource Center  
26 of the available affordable housing units, on or before the earlier of:  
27 (1) at least 60 days prior to conducting a lottery of the applicants; or  
28 (2) within one day following when the owner, developer, property  
29 manager, or other administrative entity provides any information  
30 regarding how to apply for units to prospective applicants or solicits  
31 any applications from potential applicants through any other means.  
32 The posting shall include, at a minimum, the date that the  
33 affordable housing units are expected to be completed, the date of  
34 the lottery, the number of affordable housing units, an accounting of  
35 how many of the affordable housing units will be available to very  
36 low-, low-, and moderate-income households, and each bedroom  
37 size that will be available.

38       (2) A lottery shall not take place less than 60 days following  
39 posting on the Housing Resource Center. Any posting on the  
40 Housing Resource Center shall provide a link to an online fillable  
41 form or Portable Document Format (PDF) form of the application  
42 for the affordable housing units on the website of the owner,  
43 developer, property manager, or other administrative entity and  
44 information on how to request a paper copy of the application from  
45 the owner, developer, property manager, or other administrative  
46 entity.

47       b. The owner, developer, property manager, or other  
48 administrative entity required to implement the affirmative

1 marketing plan of an existing development where one or more  
2 affordable housing units becomes available shall post vacancies and  
3 waitlist openings for any such unit on the Housing Resource Center  
4 and the requirements set forth in the affirmative marketing plan of  
5 the municipality where the development is located. The posting  
6 shall be made within one day of accepting applications and shall  
7 include, at a minimum, the expected date that the affordable  
8 housing units will become available, the number of affordable  
9 housing units, an accounting of how many of the affordable housing  
10 units will be available to very low-, low-, and moderate-income  
11 households, and each bedroom size that will be available.

12 c. (1) From time to time the owner, developer, property  
13 manager, or administrative entity required to implement the  
14 affirmative marketing plan of an existing development may elect to  
15 conduct a new lottery to generate or expand the pool of applicants,  
16 provided that applicants already on a waitlist for a particular unit  
17 type are not displaced from their place in the queue in the lottery.  
18 In such cases, the owner, developer, property manager, or other  
19 administrative entity shall be required to post a listing on the  
20 Housing Resource Center website at least 60 days prior to  
21 conducting the lottery of the applicants, or within one day of when  
22 the owner, developer, property manager, or other administrative  
23 entity provides any information regarding how to apply for the  
24 lottery to prospective applicants or solicits any applications from  
25 potential applicants through any other means, whichever is earlier.

26 (2) A lottery shall not take place less than 60 days following  
27 posting on the Housing Resource Center. Any posting on the  
28 Housing Resource Center shall provide a link to an online fillable  
29 form or Portable Document Format (PDF) form of the application  
30 for the affordable housing units on the website of the owner,  
31 developer, property manager, or other administrative entity and  
32 information on how to request a paper copy of the application from  
33 the owner, developer, property manager, or other administrative  
34 entity.

35 d. The owner, developer, property manager, or other  
36 administrative entity shall submit evidence of the listing of their  
37 available units and waitlist openings, as required by this section, to  
38 the administrative agent for the municipality.

39 e. (1) The administrative agent for the municipality and the  
40 municipal housing liaison shall ensure compliance with the  
41 provisions of this section.

42 (2) The administrative agent for the municipality and the  
43 municipal housing liaison shall have the authority to levy fines  
44 against the owner of the development for instances of  
45 noncompliance, following written notice to the owner. The fine for  
46 the first offense of noncompliance shall be \$5,000, the fine for the  
47 second offense of noncompliance shall be \$10,000, and the fine for  
48 each subsequent offense of noncompliance shall be \$15,000.

1 (3) The Executive Director of the agency may adjust the fine  
2 schedule, but shall not adjust the fine schedule until at least 60  
3 months after the effective date of P.L. , c. (C. ) (pending  
4 before the Legislature as this bill).

5 (4) All revenue generated from the fines levied pursuant to this  
6 section shall be deposited into the municipality's affordable housing  
7 trust fund.

8 (5) A fine shall not be issued pursuant to this subsection unless  
9 the administrative agent for the municipality or the municipal  
10 housing liaison first provides the owner with written notice no less  
11 than two months prior to the date the fine is levied. A fine shall  
12 only be issued if the offense has not been cured within that two-  
13 month timeframe. Issuance of a written notice or a fine shall not  
14 provide exemption to the requirement of conducting a lottery no  
15 less than 60 days following posting on the Housing Resource  
16 Center.

17 (6) The administrative agent and the municipal housing liaison  
18 shall have the authority to require the owner, developer, property  
19 manager, or administrative entity to conduct a new lottery if the  
20 provisions of this section are not implemented properly.

21 f. If a municipality fails to comply with the provisions of this  
22 section, then the municipality shall be considered non-compliant  
23 with the affirmative marketing plan requirements, except in cases in  
24 which the municipality takes appropriate corrective action pursuant  
25 to this section that such corrective action shall be construed as  
26 remaining in compliance.

27  
28 5. This act shall take effect on the first day of the fourth month  
29 next following the date of enactment.  
30

### 31 32 STATEMENT

33  
34 Current rules designed to implement the "Fair Housing Act,"  
35 P.L.1985, c.222 (C.52:27D-301 et al.) require that the developer or  
36 administrative agent of the affordable units affirmatively market  
37 their units through newspaper and radio or television, but digital  
38 marketing is not explicitly required.

39 Due to the fragmentation of information consumption and the  
40 advent of housing search websites, an increasing number of  
41 residents are conducting their housing searches online.

42 An infrastructure for hosting the increased postings already  
43 exists as the New Jersey Housing Resource Center, an online  
44 affordable housing listing portal overseen by the New Jersey  
45 Housing and Mortgage Finance Agency.

46 Under this bill, the owner, developer, property manager, or other  
47 administrative entity required to implement the affirmative  
48 marketing plan of a newly constructed development where

1 affordable housing units will be leased or sold for the first time is  
2 required to post a listing on the Housing Resource Center. All  
3 municipalities seeking substantive certification or a judgment of  
4 repose of their Housing Element and Fair Share Plan are required to  
5 adopt an affirmative marketing plan and to require conformance to  
6 that plan from any developer constructing affordable housing within  
7 the municipality.

8 The owner, developer, property manager, or other administrative  
9 entity required to implement the affirmative marketing plan of an  
10 existing development where one or more affordable housing units  
11 becomes available is required to post vacancies and waitlist  
12 openings for any such unit on the Housing Resource Center. From  
13 time to time, a new lottery may be conducted to generate or expand  
14 the pool of applicants, provided that applicants already on a waitlist  
15 for a particular unit type are not displaced from their place in the  
16 queue in the lottery.

17 A lottery would not take place less than 60 days following  
18 posting on the Housing Resource Center. Any posting on the  
19 Housing Resource Center would provide a link to an online fillable  
20 form or Portable Document Format (PDF) form of the application  
21 for the affordable housing units on the website of the owner,  
22 developer, property manager, or other administrative entity and  
23 information on how to request a paper copy of the application from  
24 the owner, developer, property manager, or other administrative  
25 entity.

26 The owner, developer, property manager, or other administrative  
27 entity is required to submit evidence of the listing of their available  
28 units and waitlist openings to the administrative agent for the  
29 municipality.

30 Under the bill, the administrative agent for the municipality and  
31 the municipal housing liaison would have the authority to levy fines  
32 against the owner of the development for instances of  
33 noncompliance. The fine for the first offense of noncompliance  
34 would be \$5,000, the fine for the second offense would be \$10,000,  
35 and the fine for each subsequent offense would be \$15,000. The  
36 Executive Director of the New Jersey Housing and Mortgage  
37 Finance Agency would have the authority to adjust the fine  
38 schedule, but may not adjust the fine schedule until 60 months after  
39 the effective date of the bill. Issuance of a written notice or a fine  
40 would not provide exemption to the requirement of conducting a  
41 lottery no less than 60 days following posting on the Housing  
42 Resource Center.

43 The bill requires the administrative agent for the municipality to  
44 ensure that the provisions of the bill are properly implemented. If a  
45 municipality fails to comply with those provisions, then the  
46 municipality shall be considered non-compliant with the affirmative  
47 marketing plan requirements, except in cases in which the  
48 municipality takes appropriate corrective action.